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Remarks

In response to Applicant's duly filed Notice of Appeal and Appeal Brief, instead of issuing an Examiner's Answer, the Examiner has issued an Office Action. The new Office Action includes a new rejection of language of claims 1, 13, 20 and 30 under 35 U.S.C. 112 because, according to the Examiner, in those claims the recitation of "simulat[ion] using physical configuration information" "fail(s) to correspond in scope with that which applicant(s) regard as the invention because it fail(s) to point out the subject matter of how the function is simulated." Also, claims 7 and 36, previously rejected, are indicated as allowable but objected to for depending from a rejected base claim. Other than these two items, there is no change to the basis of rejections stated in the prior Final Action. Specifically, all claims except 7 and 36 are rejected based upon Gaikwad, the same reference used in the previous action.

Applicant's response to the Examiner's rejections using Gaikwad have been fully articulated in Applicant's brief on appeal and will not be repeated here.

The Examiner's new rejection based upon Section 112 is entirely unsound. Section 112 does not permit the Examiner to demand the insertion of details and specifics into claim language, such as "how [a] function is simulated". The claim language being rejected clearly and unambiguously states that a transfer function is "simulated using physical configuration information of the communications system". This is clear in scope, and is clearly distinguishing of the Gaikwad prior art as previously articulated. There is simply no basis in Section 112 for requiring that Applicant insert details into this language as to the manner of the simulation.

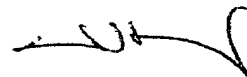
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Applicant submits that the Examiner's delivery of a new Office Action in this matter rather than an Answer to Applicant's Appeal Brief, improperly prevents prosecution of Applicant's duly noticed, briefed, and paid for appeal. Applicant is entitled to appeal the Examiner's rejections based on Gaikwad and the Examiner is not entitled to prevent this appeal by issuing a new Office Action. Applicant submits that it is the Examiner's duty to provide an Examiner's Answer and Applicant will await the delivery of same, or a Notice of Allowance, in response to this paper.

If any petition for extension of time is necessary to accompany this communication, please consider this paper a petition for such an extension of time, and apply the appropriate extension of time fee to Deposit Account 23-3000. If any other charges or credits are necessary to complete this communication, please apply them to Deposit Account 23-3000.

Respectfully submitted,



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